

HOUSE BILL 2132

By VanHuss

AN ACT to amend Tennessee Code Annotated, Section 67-2-107; Title 67, Chapter 4, Part 20 and Title 67, Chapter 4, Part 21, relative to creating a perfection period for electronically filed tax returns.

WHEREAS, certain taxes imposed by the state require the taxpayer to periodically file a return; and

WHEREAS, such taxes include, but are not limited to, the Hall income tax under § 67-2-102, the franchise tax under § 67-4-2106, and the excise tax under § 67-4-2007; and

WHEREAS, the department of revenue has, for several years, generally required that the returns for these taxes be filed using an electronic means; and

WHEREAS, certain taxpayers are able to file these returns through filing portals and free software provided by the department, while other taxpayers are either required due to the complexity of their return to file these returns using third-party software or otherwise elect to use such third-party software; and

WHEREAS, the department's electronic processing system tests an electronic return against a set of validation rules and rejects the return if it fails to meet one (1) or more validation rules; and

WHEREAS, under the department's current policy, an electronic return is considered timely filed if it is transmitted on or before the due date of the return and subsequently accepted; and

WHEREAS, a return that was transmitted on or before the due date, rejected by the department, corrected by the taxpayer, and retransmitted within a few days, but after the due date of the return, is currently treated as a return that was filed late unless the department elects to allow the taxpayer a discretionary grace period on a case-by-case basis; and

WHEREAS, due to the current policy, some taxpayers whose initial electronic return transmission is rejected may choose to file a paper return rather than attempt to retransmit the electronic return to ensure that the return is treated as timely filed; and

WHEREAS, the internal revenue service, as well as the department of revenue for many other states, currently allows a grace period or "perfection period" that treats an electronically-filed return as timely filed if it was transmitted on or before the due date of the return and subsequently corrected within a specified period of time; and

WHEREAS, implementing such a perfection period would give taxpayers the opportunity to correct errors in their returns; and

WHEREAS, doing so will also encourage compliance with the department's electronic reporting mandates by reducing the likelihood that a taxpayer will have to resort to filing a paper return; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-2-107, is amended by adding the following new subsection:

(f)

(1) As used in this subsection (f), "perfection period" means a period of ten (10) calendar days, beginning with the day after date of the first transmission of an electronic return that is subsequently rejected by the commissioner, for the taxpayer to either:

(A) Correct any errors in the return that cause it to fail to meet any of the validation criteria set by the commissioner and retransmit it; provided, that the commissioner subsequently accepts the corrected return; or

(B) File a paper return postmarked on or before the expiration of the ten (10) calendar days; provided, that the taxpayer is not required to

electronically file or the commissioner grants the taxpayer permission to file the return on paper.

(2) The commissioner may require or allow that any or all returns required under this section be filed using electronic means, to establish validation criteria for electronically filed returns, and to reject returns that fail such criteria. A taxpayer's electronically filed return shall be treated as filed on the date of the last transmission prior to the return being accepted by the commissioner, except as provided in subdivision (f)(3). A taxpayer's paper return shall be treated as filed when mailed and postmarked, except as provided in subdivision (f)(3).

(3) A return that complies with the requirements of the perfection period shall be treated as filed on the date of the first electronic transmission.

SECTION 2. Tennessee Code Annotated, Section 67-4-2015, is amended by adding the following new subsection:

(k)

(1) As used in this subsection (k), "perfection period" means a period of ten (10) calendar days, beginning with the day after date of the first transmission of an electronic return that is subsequently rejected by the commissioner, for the taxpayer to either:

(A) Correct any errors in the return that cause it to fail to meet any of the validation criteria set by the commissioner and retransmit it; provided, that the commissioner subsequently accepts the corrected return; or

(B) File a paper return postmarked on or before the expiration of the ten (10) calendar days; provided, that the taxpayer is not required to

electronically file or the commissioner grants the taxpayer permission to file the return on paper.

(2) The commissioner may require or allow that any or all franchise and excise tax returns be filed using electronic means, to establish validation criteria for electronically filed returns, and to reject returns that fail such criteria. A taxpayer's electronically filed return shall be treated as filed on the date of the last transmission prior to the return being accepted by the commissioner, except as provided in subdivision (k)(3). A taxpayer's paper return shall be treated as filed when mailed and postmarked, except as provided in subdivision (k)(3).

(3) A return that complies with the requirements of the perfection period shall be treated as filed on the date of the first electronic transmission.

SECTION 3. This act shall take effect July 1, 2018, the public welfare requiring it, and shall apply to tax returns filed on or after July 1, 2018.